

# EXHIBIT D

**Kappler, Kerry**

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**From:** Stephen C. Steinberg <ssteinberg@BZBM.com>  
**Sent:** Thursday, August 23, 2018 1:28 PM  
**To:** Kappler, Kerry  
**Cc:** mark@palmerlex.com; Weikert, Robert; May, David; Wiser, Jennette; Valentine, Dawn  
**Subject:** RE: Stardock Systems, Inc. v. Paul Reiche III and Frederick Ford

Rob,

This email is in response to your letter dated August 22, 2018. Your letter makes a series of misrepresentations, and we disagree with your arguments that our clients' DMCA notice is false and reject your demand to withdraw it. I will not take time to rebut every point, but simply respond to some of the most obvious and material misstatements.

First, as you know from discovery in the pending litigation, my clients authored and/or otherwise own copyrights to all of the creative materials in Star Control I and II, except part of the music licensed from a third-party, and all elements in Star Control 3 that were present in or derived from Star Control I and II. The DMCA notice cites these copyrighted works, not just the computer code and other materials covered by my clients' registrations.

Second, your point about the timing of the registrations has no bearing on my clients' ownership of their copyrights or whether materials published by Stardock on Valve/Steam's service infringe such copyrights (which we believe they clearly do). As to your citation of Rule 11 issues, I suggest you re-examine your own pleadings for knowingly false statements, e.g.: a) that Reiche did not own any copyrights to Star Control I and II; b) that Accolade adopted and used and Stardock acquired from Atari numerous trademarks besides STAR CONTROL; c) that Stardock first became aware of sales of the Classic Star Control Games on GOG on October 22, 2017; and d) that the sales on GOG were unauthorized and infringing.

Third, your point about an alleged delay in my clients' seeking to protect and enforce their rights is mistaken, as your client stated repeatedly for 4+ years that they would not use anything from my clients' games, including the lore, aliens (including names and designs), history, art, music, ships, characters, etc. Only recently has Stardock revealed its true intentions to release a game and content that are clearly substantially similar to and/or derivative of Star Control I and II.

Thus, your threats about our notice being false are unavailing, and we will similarly hold Mr. Unangst and Stardock liable for their false statements in their counternotice, as Stardock knows well that the removed materials are infringing.

I suggest you ensure that Stardock refrains from releasing any future version of Star Control: Origins or content for use therein that is substantially similar to and/or derivative of my clients' copyrighted works. We reserve the right to serve further DMCA notices as additional examples of Stardock's infringement are identified and as authorized by the DMCA.

Steve

**Stephen C. Steinberg**  
**Principal**

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**From:** Kappler, Kerry [mailto:kkappler@nixonpeabody.com]

**Sent:** Wednesday, August 22, 2018 4:31 PM

**To:** Stephen C. Steinberg <ssteinberg@BZBM.com>

**Cc:** mark@palmerlex.com; Weikert, Robert <rweikert@nixonpeabody.com>; May, David <DMay@nixonpeabody.com>;

Wiser, Jennette <jwiser@nixonpeabody.com>; Valentine, Dawn <dvalentine@nixonpeabody.com>

**Subject:** Stardock Systems, Inc. v. Paul Reiche III and Frederick Ford

Dear Mr. Steinberg,

Please see attached correspondence.

Thank you.



**Kerry Kappler**

Practice Assistant

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